IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

KTORI WILLIAMS, INDIVIDUALLY AND	§	
ON BEHALF OF THE ESTATE OF	§	
CHERYL A. WILLIAMS, DECEASED, and	§	
CHARLES A. WILLIAMS,	§	
	§	
Plaintiffs	§	
	§	Civil Action No. 3:16-cv-1503
v.	§	
	§	
NEXION HEALTH AT DUNCANVILLE,	§	
INC.,	§	
	§	
Defendant	§	

NOTICE OF REMOVAL

Pursuant to 28 USC §§ 1441 and 1446, Defendant Nexion Health at Duncanville, Inc. ("Nexion"), by undersigned counsel, provides this Notice of Removal of the case styled *Ktori Williams, Individually and on behalf of the Estate of Cheryl A. Williams, Deceased, and Charles A. Williams v. Nexion Health at Duncanville, Inc.*, from the District Court of Dallas County, Texas to the United States District Court for the Northern District of Texas. This action is properly removed to Federal court for the reasons set forth below.

Nexion is entitled to removal because diversity jurisdiction lies in the United States District Court for the Northern District of Texas. Diversity jurisdiction exists where there is complete diversity between the plaintiff and defendants and where the amount in controversy exceeds \$75,000.00. 28 USC § 1332(a).

I. There is complete diversity between Plaintiffs and Nexion and the matter in controversy exceeds \$75,000.

Plaintiffs are citizens of the State of Texas. Plaintiffs' Original Petition, attached as

Exhibit A-1, at ¶2-3. Nexion's principal place of business is in Maryland, which is listed in the State of Texas' records as Nexion's principal place of business, as well as the location of Nexion's controlling officers. See Exhibit B; 28 USC § 1332(c)(1); Hertz Corp. v. Friend, 559 U.S. 77, 78 (2010) ("phrase 'principal place of business' in § 1332(c)(1) refers to the place where a corporation's high level officers direct, control, and coordinate the corporation's activities, i.e., its 'nerve center,' which will typically be found at its corporate headquarters"). There is complete diversity between Plaintiffs and Nexion.

Plaintiffs' complaint seeks actual and punitive damages "in a sum within the jurisdictional limits of the" state district court. Exhibit A-1 at ¶¶6; 29-33. Texas law allows up to \$250,000 in non-economic damage for medical liability claims. Tex. Civ. Prac. & Rem. Code § 74.301. Plaintiff additionally seeks an award of exemplary damages by alleging that Nexion was grossly negligent. Exhibit A-1 at ¶¶32-33; Tex. Civ. Prac. & Rem. Code § 41.008 (providing for exemplary damages up to amount equal to non-economic damages). Plaintiffs' alleged damages exceed the \$75,000 minimum jurisdictional amount. 28 USC § 1332.

II. This Notice complies with the procedural requisites of 28 USC § 1446.

28 USC § 1446(b)(1) requires that a Notice of Removal be filed within thirty (30) days of service of process on the removing defendant or defendants. Here, service of process on Nexion occurred on May 16, 2016. Exhibit A-5. An Appendix of all copies of all process, pleadings, and orders served on Nexion as required by 28 USC. § 1446(a) is attached hereto. A copy of this Notice of Removal is being filed with the District Court of Dallas County, Texas. As such, this Notice of Removal is properly filed.

WHEREFORE, Defendant Nexion Health at Duncanville, Inc. hereby notifies the Court and all other parties that this cause is now removed to the U.S. District Court for the Northern District of Texas.

Respectfully submitted,

Macdonald Devin, P.C.

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COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing **NOTICE OF REMOVAL** was served on all counsel of record in accordance with the Texas Rules of Civil Procedure via electronic mail on this the 6^{th} day of June 2016.

Via email: Patrick@powerstaylor.com

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/s/ Gregory N. Ziegler
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